

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

UNITED STATES OF AMERICA,

v.

JERRY LAVONTE BOSS,

Defendant.

CASE NO.

5:17-cr-00033-TES

ORDER DENYING IN PART DEFENDANT’S MOTION TO SUPPRESS

Before the Court is Defendant Jerry Lavonte Boss’s Motion to Suppress [Doc. 30] in which he asks the Court “to suppress any and all confessions and/or physical evidence seized as a result of Officer [] Thompson’s January 13, 2017, traffic stop.” [Doc. 30, at p. 1]. After consideration of the parties’ submissions and a lengthy hearing, the Court **DENIES in part** and **GRANTS in part** Defendant’s Motion to Suppress [Doc. 30]. Specifically, the Court finds that the evidence discovered in Defendant’s car need not be suppressed under an exception to the exclusionary rule but that Defendant’s statements must be suppressed as involuntary confessions.

STANDARD OF REVIEW

The movant bears the initial burden of persuading the court, through specific factual allegations and supporting evidence, that the evidence should be suppressed. *United States v. de la Fuente*, 548 F.2d 528, 533 (5th Cir. 1977). Once the movant establishes a basis for the motion, the burden then shifts to the Government to prove by a

preponderance of the evidence that the search or seizure of evidence was legally and factually justified. *United States v. Freire*, 710 F.2d 1515, 1519 (11th Cir. 1983) (citation omitted) (“Upon a motion to suppress evidence garnered through a warrantless search and seizure, the burden of proof as to the reasonableness of the search rests with the prosecution. The Government must demonstrate that the challenged action falls within one of the recognized exceptions to the warrant requirement, thereby rendering it reasonable within the meaning of the [F]ourth [A]mendment.”); *United States v. Matlock*, 415 U.S. 164, 177 n.14 (1974) (citation omitted) (“[T]he controlling burden of proof at suppression hearings should impose no greater burden than proof by a preponderance of the evidence.”).

FACTUAL FINDINGS

The Court finds that the evidence admitted at the hearing on Defendant’s Motion to Suppress establishes the following facts by a preponderance of the evidence. *United States v. Beechum*, 582 F.2d 898, 913 n.16 (5th Cir. 1978) (citing *Lego v. Twomey*, 404 U.S. 477, 489 (1972)).

On January 13, 2017, around 3:00 a.m., Officer Mike Thompson (formerly of the Milledgeville Police Department) discovered two individuals—Grace Teague and Reed Benson—rummaging through a dumpster behind a Salvation Army. *See* [Doc. 47, at pp. 31–33]. Officer Thompson approached Teague and Benson and asked what they were doing. *See* [*Id.* at p. 33]. Teague and Benson told Officer Thompson that they were

“dumpster diving.” *See [Id.]*. Officer Thompson asked Teague and Benson if he could search their vehicle and they consented. *See [Id. at pp. 12]*. Upon searching their vehicle, Officer Thompson discovered methamphetamine (hereinafter “meth”) and associated paraphernalia. *See [Id.]*.

Rather than arresting Teague and Benson, Officer Thompson offered to make them a deal. *See [Id. at p. 34]*. In exchange for cooperating with Officer Thompson to make another arrest, he would not arrest either of them and would not inform Teague’s drug court program Teague about the incident. *See [Doc. 47, at pp. 12 & 13]*. Teague and Benson agreed to cooperate. *[Id. at pp. 13 & 34]*. Officer Thompson then asked them who they were getting their meth from and whether they could have an amount of it brought into Milledgeville as part of a buy-bust operation.¹ *See [Id. at pp. 13 & 34]*. Teague and Benson told Officer Thompson that Defendant supplied their meth. *See [Id. at p. 36]*.

At the time, Officer Thompson was investigating Defendant for distributing meth. *See [Id.]*. After Teague and Benson agreed to cooperate with Officer Thompson, he took them to the Milledgeville Police Department where they unsuccessfully attempted to contact Defendant several times. *See [Id. at p. 13–14]*. Officer Thompson sent Teague and Benson home to get some sleep. *See [Doc. 47, at p. 14]*. When they woke up, Benson had

¹ A buy-bust operation is a law enforcement tactic for catching distributors of controlled substances. In this type of operation, the officers, sometimes assisted by informants as in this case, arrange a transaction for the sale of the controlled substance. *See [Doc. 47, at p. 77]*. The officers stop the transaction before the sale takes place. *See [id.]*.

a missed call from Defendant. *See [Id.]*. Teague and Benson immediately called Defendant back and attempted to persuade him to come to Milledgeville, but he initially declined. *See [Id.]*. After further discussions, it was settled that Teague and Benson would travel to Defendant and bring him back to Milledgeville. *See [Id.]*.

At around 6:00 p.m. on January 13, 2019, Teague and Benson met with Officer Thompson in the parking lot of a restaurant. *See [Id. at p. 36–37]*. During this meeting, either Teague or Benson called Defendant and asked if he had a certain quantity of meth because they had a buyer for it in Milledgeville. *See [Id. at pp. 37–38]*. Defendant indicated that he did not feel well and could only come to Milledgeville if they drove him, that he did have the amount of meth they asked for, and that he would sell it for \$600 per ounce. *See [Doc. 47, at p. 38]*. The call took place on speaker phone so Officer Thompson heard the entire exchange and recognized the voice on the other line as Defendant's. *See [Id. at p. 37]*.

After the call concluded, Teague and Benson traveled to some location in the area of Dublin, Georgia, to pick up Defendant. *See [Id. at p. 39]*. Officer Thompson was in consistent communication with Teague and Benson regarding their whereabouts and estimated travel time as they drove to pick up Defendant. *See [Id. at pp. 38]*. Officer Thompson did acknowledge that the phone Teague and Benson were using would occasionally lose service, though Teague and Benson would promptly call him back. *See [Id. at p. 38]*.

Eventually, Teague and Benson arrived at a house where they had arranged to pick up Defendant. *See [Id. at p. 17]*. They went inside and talked with Defendant who suggested that they get high. *See [Doc. 47, at p. 17]*. Teague and Benson agreed, so they “passed around a bowl” with Defendant. *See [Id. at p. 17]*. Officer Thompson was not aware of the fact that Teague and Benson ingested smoked meth during the operation. *See [Id. at p. 71]*. After some time at the house where they met Defendant, Teague, Benson and Defendant “packed up” and left. *See [Id. at p. 18]*. Teague drove her vehicle and Defendant drove his vehicle. *See [Id. at p. 19]*. Benson was a passenger in Defendant’s vehicle. *See [Id.]*. As they were driving, Teague maintained contact with Officer Thompson regarding their whereabouts and told him that she witnessed Defendant weigh out the meth for the fake transaction. *See [Id. at pp. 18 & 73–74]*.

After leaving the first house, Teague, Benson and Defendant drove to a gas station to pick up some items and then to Defendant’s mother’s home in Tennille, Georgia, where Defendant picked up some items to stay overnight with Teague and Benson. *See [Doc. 47, at pp. 18–19]*. After leaving Defendant’s mother’s home, Teague continued to follow Defendant and Benson towards Milledgeville. *See [Id.]*. Teague maintained contact with Officer Thompson during this time regarding their location and route. *See [Id. at pp. 19–20 & 39]*. Officer Thompson, being from the area, was able to confirm that the route Teague was describing to him would lead to Milledgeville. *See [Id.]*. Teague immediately informed Officer Thompson when they crossed into Baldwin County—the county where

Milledgeville is located. *See [Id. at p. 20]*.

While Teague, Defendant and Benson were making their way to Milledgeville, Officer Thompson positioned his police vehicle in a median along the route Teague, Defendant and Benson were expected to travel through Milledgeville. *See [Id. at p. 40]*. At some point, Teague informed Officer Thompson that they were at a red light and described the scene to him. *See [Doc. 47, at p. 40]*. Specifically, Teague told Officer Thompson that Defendant's vehicle was in front of her vehicle (which Officer Thompson was familiar with from the previous evening) and that they were the only cars at the light. *See [Id. at pp. 40 & 16]*. Officer Thompson saw the vehicles at the red light as Teague described. *See [Id. at p. 40]*. When Defendant drove past Officer Thompson's vehicle, Officer Thompson began pursuing Defendant. *See [Id. at pp. 40–41]*. Defendant pulled over and Teague pulled over about 150 feet behind Defendant's vehicle. *See [Id. at p. 21]*. At this point, several other police vehicles arrived on the scene. *See [Id.]*.

After stopping Defendant, Officer Thompson asked him to exit his vehicle and was able to confirm that Defendant was the driver of the vehicle. *See [Doc. 47, at p. 41]*. Officer Thompson then informed Defendant that he pulled him over for failure to maintain lane and engaged Defendant in a variety of small talk. *See [Doc. 30-1, at pp. 2–4]*. Eventually, Officer Thompson asked Defendant if he had any drugs in his possession. *See [Id. at pp. 5–6]*. Defendant responded that he did not. *See [Id. at p. 5]*. Officer Thompson continued to press the issue, again asking Defendant if he had drugs in his possession and

reassuring him that they could “work it out like [they] [had] been working it out.”² [*Id.* at p. 6]. Finally, Defendant admitted that there was “dope” in the center console of his vehicle. *See* [*Id.* at p. 7].

Officer Thompson and at least one other officer proceeded to search Defendant’s vehicle and found approximately one ounce of meth in the center console of Defendant’s vehicle. *See* [Doc. 47, at p. 44]. After further searching and at the direction of Defendant, an additional ounce of meth was located under a seat in Defendant’s vehicle. *See* [*Id.*]. *See also* [Doc. 43-5, at p. 12]. The officers also discovered a firearm in Defendant’s vehicle. *See* [Doc. 47, at p. 80].

Eventually, Defendant asked Officer Thompson if he was under arrest. *See* [Doc. 43-5, at p. 21]. Officer Thompson told him that he was not under arrest but transported him to the Milledgeville Police Department where he was formally arrested and Mirandized. *See* [Doc. 47, at p. 50]. Defendant signed a waiver of rights and agreed to be interviewed. *See* [*Id.* at pp. 51–52]. During the interview, Officer Thompson and another officer attempted to get Defendant to cooperate in the investigation of another suspected drug dealer but acknowledged that whether Defendant would be charged was ultimately not their decision. *See* [Doc. 43-10, at pp. 2 & 5]. Defendant was willing to cooperate. *See*

² At the hearing held on this motion, Officer Thompson testified that he had two previous encounters with Defendant regarding the distribution of controlled substances. *See* [Doc. 47, at p. 48]. At that time, Defendant had agreed to cooperate with Officer Thompson to provide information leading to a “bigger fish.” [*Id.*].

[*Id.* at pp. 14–15]. Officer Thompson informed Defendant that, at a minimum, Defendant would remain detained overnight but that Officer Thompson would try to see what kind of deal he could get authorization to make with Defendant in the meantime. *See* [*Id.* at p. 13].

On July 11, 2017, a two-count indictment was filed against Defendant alleging possession of a controlled substance with intent to distribute and possession of a firearm in furtherance of a drug trafficking offense. *See* [Doc. 1]. At his initial appearance, Defendant entered a plea of not guilty and then filed the Motion to Suppress that is now before the Court. *See* [Doc. 13].

DISCUSSION

The first argument Defendant makes in his Motion to Suppress is that Officer Thompson illegally stopped and detained him. *See* [Doc. 30, at pp. 6–13]. Defendant argues that the stop and detention were illegal because: (1) Officer Thompson lacked probable cause to believe Defendant violated a traffic law or reasonable suspicion that he was involved in criminal activity [Doc. 30, at pp. 7–9] and (2) Officer Thompson detained Defendant beyond what was necessary to investigate the traffic stop [Doc. 30, at pp. 9–13]. Defendant further argues that the Court should suppress “any and all confessions and/or physical evidence that are the result of Officer [] Thompson’s January 13, 2017 traffic stop.” [*Id.* at p. 13]. Defendant maintains that when he told Officer Thompson about the drugs in his vehicle, he was under arrest and had not been informed of his Fifth

Amendment rights—rendering his confession involuntary. [*Id.* at pp. 13–19] (citing *Miranda v. Arizona*, 384 U.S. 436 (1996)). But, Defendant argues, even if he was not under arrest so that *Miranda* did not apply, Officer Thompson’s promise of leniency rendered Defendant’s statements involuntary in violation of the Due Process clause. [*Id.* at pp. 19–20].

After Defendant filed this motion, the Government provided him with discovery material that significantly altered the landscape of this motion. This discovery material contained evidence that Officer Thompson actually stopped Defendant as part of a buy-bust operation that Officer Thompson coordinated with two informants. *See* [Doc. 35, at p. 1; Doc. 34, at p. 4; Doc. 40, at pp. 8–9]. The Government readily conceded that if Officer Thompson had not stopped Defendant as part of a buy-bust operation, then the stop would have been illegal. *See* [Doc. 47, at p. 98]. The Government’s concession on this point obviously changes the analysis of the legality of Officer Thompson’s stop and how that stop could permissibly play out. Thus, rather than engaging with Defendant on the issue on the appropriate scope of the stop, the Government argues that Officer Thompson had probable cause to stop Defendant’s vehicle and that the search was legal under the automobile exception to the Fourth Amendment. [Doc. 34, at pp. 5–6] (citing U.S. Const. amend. IV and *United States v. Lindsey*, 482 F.3d 1285, 1293 (11th Cir. 2007)).

In his reply, Defendant argues that there is insufficient evidence that Officer Thompson stopped him as part of a buy-bust operation. [Doc. 40, at p. 11] (“There has

been nothing to support the Government's claim that this case was the garden variety buy-bust."). And, Defendant maintains, if Officer Thompson did not stop him as part of a buy-bust operation, then Officer Thompson did not have reasonable suspicion to justify stopping him and the ensuing search was not supported by probable cause. [*Id.*]. Defendant does not contemplate the consequences of the Court finding that Officer Thompson did in fact stop him as part of a buy-bust operation.

After extensive back and forth between the parties in their briefs and at the hearing held on this motion, it is apparent to the Court that the disposition of Defendant's Motion to Suppress turns on the resolution of two questions. First, whether Officer Thompson had reasonable suspicion to believe that Defendant was committing a crime at the time he stopped him. And, second, whether Officer Thompson legally obtained the evidence in the ensuing search.

A. Reasonable Suspicion that Defendant was Committing a Crime

The Court finds that Officer Thompson had reasonable suspicion to stop Defendant's vehicle. "That a police officer 'may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot' is well settled." *United States v. Franklin*, 323 F.3d 1298 (11th Cir. 2003) (quoting *Illinois v. Wardlow*, 528 U.S. 119, 123 (2000)). "Reasonable suspicion is a less demanding standard than probable cause, but requires 'at least a minimal level of objective justification for making the stop.'" *Franklin*, 323 F.3d at 1298 (quoting *Wardlow*,

528 U.S. at 1230)). In this case, Officer Thompson had personal knowledge of the fact that Defendant planned to sell a quantity of meth to a buyer in Milledgeville that evening based on the call he overheard between Teague, Benson and Defendant. *See* [Doc. 47, at pp. 37–38]. This fact weighs heavily in favor of finding that the stop was supported by reasonable suspicion.

Reasonable suspicion may also be supported by information from an informant, if the officer is able to corroborate information provided by the informant such that the informant is trustworthy. *See United States v. Kent*, 691 F.2d 1376, 1380 (11th Cir. 1982). Officer Thompson corroborated a number of facts conveyed to him by Teague and Benson prior to stopping Defendant. For example, Teague and Benson told Officer Thompson when he spoke with them during their first interaction that Defendant—an individual known to Officer Thompson to distribute controlled substances—sold them the meth he discovered in their vehicle. [Doc. 47, at pp. 34–36 & 48]. *See also* [Doc. 47, at p. 48] (Officer Thompson describing previous interaction with Defendant involving distribution of meth). *See United States v. Johnson*, 379 F. App'x 964, 967 (11th Cir. 2010) (acknowledging corroboration where informant's statement that defendant was dealing drugs was consistent with Officer's prior investigation into defendant's drug activity). Later, Officer Thompson overheard a call between Teague, Benson and Defendant, confirming that the informants did, in fact, have a commercial relationship with Defendant as they had previously told him. *See [Id. at pp. 37–38]*.

Officer Thompson corroborated additional facts on the evening of the stop. Officer Thompson testified that he was in consistent communication with one of the informants as they traveled from just outside Dublin to Milledgeville. [*Id.* at p. 39]. During these communications, the informant described the route they were taking and Officer Thompson, being from the area, confirmed that this was a route from the Dublin area to Milledgeville. *See* [*Id.*]. Just before the stop, Officer Thompson positioned himself in a median along the route the informant said they were taking through Milledgeville. *See* [*Id.* at p. 40]. The informant then alerted Officer Thompson when they arrived in the area and described to Officer Thompson their precise location and the vehicle she was in as well as the vehicle Defendant was in. *See* [Doc. 47, at p. 40]. Officer Thompson, from his position in the median, could clearly see the vehicles the informant was describing thus corroborating both the vehicles involved and their locations. *See* [*Id.*]. *See Talley*, 108 F.3d at 281 (holding that informant's corroborated description of vehicle and vehicle's location supported finding of probable cause). Because Officer Thompson corroborated much of the information the informants conveyed to him, he was entitled to rely on the information Teague and Benson provided to him.

Based on Officer Thompson's personal knowledge of Defendant's plans to sell a quantity of meth in Milledgeville that evening and the more specific information he received from informants he was entitled to rely on, the Court easily concludes that Office Thompson had reasonable suspicion to stop Defendant's vehicle.

B. Exclusion of Evidence

Having concluded that Officer Thompson's stop of Defendant's vehicle was supported by reasonable suspicion, the Court turns to the question of whether Defendant's statements and the evidence discovered in the ensuing search must be suppressed. As explained below, the Court finds that Defendant's confessions regarding the meth must be suppressed, but the physical evidence discovered in Defendant's vehicle need not be.

1. Defendant's Confessions

The Court begins with the question of whether Defendant's confessions must be suppressed and concludes that they must be. Involuntary statements made by a defendant must be suppressed. *See Jackson v. Denno*, 378 U.S. 368, 385–86 (1964) (holding that the use of involuntary confessions in criminal cases is forbidden). A statement may be rendered involuntary if the statement is prompted by a promise of leniency. *See United States v. Lall*, 607 F.3d 1277, 1285 (11th Cir. 2010) (“‘[E]ven a mild promise of leniency,’ though not ‘an illegal act as such,’ undermines the voluntariness of a confession ‘because defendants at such times are too sensitive to inducement and the possible impact on them too great to ignore and too difficult to assess.’”) (quoting *Brady v. United States*, 397 U.S. 742, 754 (1970)).

In this case, the evidence shows that Officer Thompson's assurances that he and Defendant would “work it out as they had been working it out” amounted to a promise

of leniency in exchange for Defendant's confession. [Doc. 47, at p. 48]. As Officer Thompson explained, his offer to "work it out as they had been working it out" referred to prior instances of Officer Thompson apparently agreeing not to institute prosecution against Defendant for drug related activity in exchange for Defendant's cooperation in leading Officer Thompson to a "bigger fish." *See* [Doc. 47, at p. 48]. In other words, Officer Thompson's assurances in this instance were tantamount to a promise that if Defendant cooperated in Officer Thompson's investigation into another suspected drug dealer, Officer Thompson would again decline to institute prosecution against Defendant. Officer Thompson's assurances were unequivocal (at least initially) that a prompt confession from Defendant would result in the same lenient treatment Defendant had received from Officer Thompson in the past. Based on this evidence, the Court finds that Officer Thompson's assurances that he and Defendant would "work it out" amounted to at least a "mild promise of leniency." *See Lall*, 607 F.3d at 1285.

The Court acknowledges that the Eleventh Circuit has, in other cases, declined to find that discussions related to cooperation rendered a confession involuntary. *See, e.g., United States v. Graham*, 323 F. App'x 793 (11th Cir. 2009); *United States v. Mercer*, 541 F.3d 1070 (11th Cir. 2008); *United States v. Davidson*, 768 F.2d 1266 (11th Cir. 1985). But this case is factually distinguishable from those cases. Unlike in *Graham*, Officer Thompson initiated the discussions surrounding cooperation rather than Defendant. *See Graham*, 323 F. App'x at 796 (holding that confession was not involuntary where defendant initiated

cooperation discussions). Granted, the fact that an officer initiates the cooperation discussions is not, absent some promise of leniency, sufficient to render a confession involuntary. *See Mercer*, 541 F.3d at 1075. But, as explained above, the Court finds that the history between Officer Thompson and Defendant meant that Officer Thompson's promise that "they would work it out" carried special significance. Defendant could reasonably assume that this meant that he would not be charged in this incident as he was not charged in the prior incidences. Such assurances distinguish this case from *Mercer* where the Eleventh Circuit noted that there was no evidence of a promise of leniency. *See id.* Finally, this case is distinguishable from *Davidson* in that Officer Thompson's statement to Defendant was an unequivocal assurance of leniency while the statement in *Davidson* was a non-committal statement from the officer that cooperation would "*probably* be helpful" to the defendant in that case. *Davidson*, 768 F.2d at 1271 (11th Cir. 1985) (emphasis added).

In light of the concrete promise of leniency Officer Thompson made to Defendant, the Court finds that Defendant's confession was involuntary and therefore must be suppressed.

2. Physical Evidence Discovered in Defendant's Vehicle

Turning to the physical evidence discovered in Defendant's vehicle, the Court finds that the evidence need not be suppressed because the officers involved in the bust were inevitably going to discover the drugs through lawful means. "Under the inevitable

discovery exception [to the exclusionary rule], if the prosecution can establish by a preponderance of the evidence that the information would have ultimately been recovered by lawful means, the evidence will be admissible.” *United States v. Virden*, 488 F.3d 1317, 1322 (11th Cir. 2007) (citing *Nix v. Williams*, 467 U.S. 431, 434 (1984)). Thus, for the inevitable discovery exception to apply, the prosecution must show by a preponderance of the evidence that (1) the discovery was inevitable and (2) that such discovery was through legal means.

In this case, the Court finds by a preponderance of the evidence that Officer Thompson was inevitably going to discover the drugs when he searched Defendant’s vehicle. Based on the facts of this case, it is apparent that Officer Thompson orchestrated this entire operation for the purpose of catching Defendant with a certain quantity of drugs. Although Defendant did expedite the discovery by telling Officer Thompson where in the car the drugs were located, the evidence shows that the drugs were not so secretly hidden that Officer Thompson would not have found the drugs without Defendant’s assistance. Accordingly, the Court finds that the first element of the inevitable discovery exception is satisfied.

The Court also finds that a search of Defendant’s vehicle without his consent and without his statement that there were drugs in the vehicle would have been legal. Although “the Fourth Amendment generally requires law enforcement officials to obtain a warrant before conducting a search,” this rule gives way to a limited number of

exceptions. *United States v. Watts*, 329 F.3d 1282, 1284 (11th Cir. 2003). One such exception—the automobile exception— “allows the police to conduct a search of a vehicle if (1) the vehicle is readily mobile; and (2) the police have probable cause for the search.” *United States v. Lindsey*, 482 F.3d 1285, 1293 (11th Cir. 2007). The first element is satisfied if “the automobile is operational.” *Watts*, 329 F.3d at 1286.

Here, the undisputed evidence is that Defendant was driving his car at the time Officer Thompson stopped him. *See, e.g.*, [Doc. 30, at p. 2] (“Mr. Boss . . . responds that he was driving.”). Accordingly, the first element is clearly satisfied. The Court finds that the second element—that the search be supported by probable cause—is also satisfied. Probable cause “exists when the totality of the circumstances allow a conclusion that there is a fair probability of finding contraband or evidence at a particular location.” *United States v. Brundidge*, 170 F.3d 1350, 1352 (11th Cir. 1999). As the totality of the circumstances standard suggests, “probable cause is a fluid concept—turning on the assessment of probabilities in particular factual contexts—not readily, or even usefully, reduced to a neat set of legal rules.” *Illinois v. Gates*, 462 U.S. 213, 232 (1983). This “fluid” totality of the circumstances analysis applies to all probable cause determinations including whether information obtained from confidential informants is sufficient to create probable cause to support a search. *Id.* Although the analysis is “fluid,” other courts have identified a number of factors to consider in determining whether evidence received from confidential informants is sufficient to create probable cause. Factors

relevant to this case include the officer's independent corroboration of information provided by the informant; the informant's personal knowledge of the alleged illegal activity; the thoroughness and detail of the information the informant provided; and whether, in the event the informant was dishonest, the officer would quickly discover the lie and the informant would face the consequences of his or her dishonesty.

First, the corroboration. Although "[i]ndependent police corroboration of a confidential informant's statement is not a requirement in every case," the Eleventh Circuit has found probable cause existed "where police were able to independently confirm some of the facts the informant provided." *United States v. Roland*, 133 F. App'x 660, 662 (11th Cir. 2005) (citing *United States v. Martin*, 297 F.3d 1308, 1315 (11th Cir. 2002); *United States v. Talley*, 108 F.3d 277, 281 (11th Cir. 1997)). As explained above in the Court's discussion of reasonable suspicion, Officer Thompson corroborated a number of facts offered by the informants prior to stopping Defendant. In addition to those facts, Officer Thompson was able to corroborate that Defendant was the driver of the vehicle—as Teague had told Officer Thompson—prior to searching his vehicle. Officer Thompson's extensive corroboration tends to support a finding of probable cause.

Also supporting probable cause is the fact that the information the informants conveyed to Officer Thompson was based on their personal knowledge. Officer Thompson testified that one of the informants told him that she personally witnessed Defendant weigh out the meth and that Defendant had it on him when he got into his

vehicle to make the trip to Milledgeville. [*Id.* at pp. 73–74]. *See Gates*, 462 U.S. at 234 (“[E]xplicit and detailed description of alleged wrongdoing, along with a statement that the event was observed firsthand, entitles [the informants’] tip to greater weight than might otherwise be the case.”).

Finally, the circumstances of the operation—namely the fact that this was effectively a controlled surveillance operation—where such that the informants were unlikely to lie, thus supporting a finding of probable cause. In *United States v. Foree*, the Eleventh Circuit upheld the lower court’s finding of probable cause in the absence of direct factual corroboration of an informant’s information because the officer “creat[ed] circumstances under which [the informant] [was] unlikely to lie.” 43 F.3d 1572, 1576 (11th Cir. 1995). The Court noted that the operation in *Foree* was a controlled surveillance operation and so “the [informant] was unlikely to be untruthful, for, if the warrant issued, lies would likely be discovered in short order and favors falsely curried would dissipate.” *Id.*

Based on its decision in *Foree*, the Eleventh Circuit again upheld a district court’s finding of probable cause following a controlled surveillance operation in *United States v. Blanco*, 322 F. App’x 916 (11th Cir. 2009). In *Blanco*, the officers arrested the informant for possession of meth. *Id.* at 917. The informant “offered to cooperate with the officers by leading them to her supplier.” *Id.* In the presence of the officers, the informant called her supplier—the defendant in *Blanco*—and arranged a transaction for that afternoon. *Id.* The

officers went with the informant to the place where the transaction was to occur and, when the defendant entered the informant's vehicle, they arrested and searched him and found controlled substances in his possession. *Id.*

This case bears many similarities to *Blanco*. Like the informant in that case, the informants in this case had no previous experience assisting the officers in making an arrest. Nevertheless, the Court in *Blanco* placed dispositive weight on the fact that the officers and informant in that case were together at time the informant's deceit would have been revealed. So too here. Both informants were present at the stop and, like the informant in *Blanco*, had good reasons for trying to curry favor with the officers involved in the operation. Thus, the circumstances of the stop in this case, as in *Foree* and *Blanco*, support a finding of probable cause.

Based on the totality of the circumstances, the Court finds that Officer Thompson's search of Defendant's vehicle was supported by probable cause, thus the second element of the automobile exception is satisfied. Because the automobile exception to the Fourth Amendment's warrant requirement applies, a search of Defendant's vehicle without his consent or his admission that he was transporting drugs would have been legal. Consequently, the Court finds that the requirements for the inevitable discovery exception to the exclusionary rule applies. The Court, therefore denies Defendant's Motion to Suppress the drugs and gun found in his car.

CONCLUSION

For the reasons explained above, the Court finds that Officer Thompson did not illegally stop Defendants vehicle; that Defendant's confession was involuntary in light of the promises of leniency Officer Thompson made to Defendant and must therefore be suppressed; but that the physical evidence discovered in Defendant's car need not be suppressed because its discovery was inevitable through lawful means. Consequently, the Court **DENIES in part** and **GRANTS in part** Defendant's Motion to Suppress [Doc. 30].

SO ORDERED this 8th day of May, 2019.

S/ Tilman E. Self, III
TILMAN E. SELF, III, JUDGE
UNITED STATES DISTRICT COURT